

April 2, 2018

West Des Moines City Council Proceedings  
Monday, April 2, 2018

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, April 2, 2018 at 5:30 PM. Council members present were: R. Hardman, J. Mickelson, K. Trevillyan, and R. Trimble. Council member J. Sandager participated via telephone.

City Clerk Ryan Jacobson stated staff has made a clarification to Item 7(e) Contract with Firefighters Local 3586 to specify that this is the EMT-Paramedics union contract.

On Item 1. Agenda. It was moved by Trimble, second by Trevillyan approve the agenda as amended.

Vote 18-161: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

Council member Hardman reported she assisted with the Police Sergeant interview process. She also attended an open house for MorningStar at Jordan Creek. She also reported she served as an alternate at a meeting of the Public Services Subcommittee and attended the West Des Moines Chamber of Commerce Annual Dinner.

City Manager Tom Hadden introduced the City's new ITS Director Joe Menke.

On Item 4. Consent Agenda.

It was moved by Trevillyan, second by Hardman to approve the consent agenda as presented.

- a. Approval of Minutes of March 19, 2018 and March 26, 2018 Meetings
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  - 1. BL Restaurant Operations, LLC d/b/a Bar Louie, 7105 Mills Civic Parkway, Suite 150 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
  - 2. Two Tees, LLC, d/b/a Blu Toro, 5585 Mills Civic Parkway, Suite 110 - Class LC Liquor License Extension of Outdoor Service - May 4-6, 2018
  - 3. Foundry Distilling Company, LLC d/b/a Foundry Distilling Company, 111 South 11th Street, Suite 100 - Class A Native Distilled Spirits License - New
  - 4. New Silk Road, LLC d/b/a Heavenly, 225 5th Street - Class LC Liquor License with Carryout Wine, Sunday Sales, and Outdoor Service Privileges - Renewal

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5. Hy-Vee, Inc. d/b/a Hy-Vee Drugstore #2, 1010 60th Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
6. BDF, Inc. d/b/a The Longest Yard, 122 5th Street - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
7. Your Private Bartender, LLC d/b/a Your Private Bartender, 1701 25th Street, Suite 102 (Events Center West) - Six-Month Class LC Liquor License with Sunday Sales - New
- d. Approval of Order for Violation of Alcohol Laws
- e. Approval of Revised 2018-19 Committee and Other Assignments
- f. Approval of Enterprise Agreement and Payment - ESRI
- g. Approval of Purchase and Payment - Outdoor Warning Siren Control System
- h. Approval of Recommended Special Use Facility Name - Nellie Phenix Legacy Commons
- i. Approval of Substituted and Restated 28E Agreement - Polk County Emergency Management
- j. Order Construction:
  1. 2018 PCC Patching and Medians Program
  2. Library and Law Enforcement Center HVAC Improvements
  3. Valley Junction Alley Improvements, Phase 5A
  4. Veterans Parkway, Alluvion TIF Boundary to SE 50th Street
  5. Veterans Parkway Bridge over I-35
  6. Fairmeadows Park Water Quality Improvements
- k. Accept Work - 2017 PCC Patching and Medians Program
- l. Approval of Professional Services Agreement - Library and Law Enforcement Center HVAC Improvements - Commissioning
- m. Accept Public Improvements - Fareway Plat 1 Sanitary Sewer
- n. Approval of Transfer of Public Road Jurisdiction - Ashworth Road and 88th Street along I-80
- o. Establish Just Compensation and Approve Acquisition of Property:
  1. Booneville Road Bridge over Sugar Creek
  2. Valley West Drive and Westown Parkway Storm Sewer Improvements
- p. Approval and Acceptance of Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement - New Horizon Academy Day Care, 9040 University Avenue
- q. Approval and Acceptance of Purchase Agreements and Property Interests - Project Osmium Public Infrastructure
- r. Approval of Agreement for Partial Removal of Median on South 60th Street - Westwood Baptist Church, 895 South 60th Street
- s. Approval of Extension to IEDA Economic Development Assistance Contract - Outcomes, Inc.
- t. Approval and Release of Plat of Survey for the Vacation of a Portion of Wendover Road

Vote 18-162: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

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On Item 5(a) Amendment to City Code - Title 4 (Health and Safety Regulations), Chapter 5 (Solid Waste Control) - Remove the Licensing Requirements for Haulers of Solid Waste, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Hardman to consider the second reading of the ordinance.

Vote 18-163: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Hardman to approve the second reading of the ordinance.

Vote 18-164: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

It was moved by Trevillyan, second by Hardman to waive the third reading and adopt the ordinance in final form.

Vote 18-165: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 5(b) Property Tax Rebate Program - Request for Reconsideration of Application, initiated by Ballenger Real Estate, LLC

Mayor Gaer noted additional information has been provided in the form of affidavits from the applicants for Items 5(b) and 5(c). He stated Council member Hardman, as a council member that voted on the prevailing side, has requested these two items be reconsidered.

It was moved by Hardman, second by Mickelson to adopt Resolution - Approval of Application.

Council member Hardman stated since the applicants have submitted their affidavits and she has had conversations with both applicants and City staff, she has reconsidered her position and now supports approving the applications for Items 5(b) and 5(c). She believes the two development projects do fit the intention of the property tax rebate program, and she noted an exception had already been granted for a previous project.

Council member Trevillyan stated the exception referenced by Council member Hardman was when the program first started and the materials did not clearly state when the application deadline was, but that has since been clarified. He expressed concerns that approving these applications would set a bad precedent.

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Council member Trimble stated he does not believe the affidavits provide sufficient evidence that the project financing was contingent upon receiving the property tax rebate. He noted in other situations, ignorance of the law is not an excuse. He stated the program has required the application be submitted prior to obtaining building permits to ensure the project is truly being incentivized by the program and would not otherwise occur without it. He also expressed concerns that approving these applications would set a bad precedent.

Vote 18-166: Hardman, Mickelson, Sandager ...3 yes

Trevillyan, Trimble ... 2 no

Motion carried.

On Item 5(c) Property Tax Rebate Program - Request for Reconsideration of Application, initiated by LTR Pointe, LLC

It was moved by Hardman, second by Mickelson to adopt Resolution - Approval of Application.

Council members Trevillyan and Trimble reiterated their comments from Item 5(b) as they apply to Item 5(c) as well.

Vote 18-167: Hardman, Mickelson, Sandager ...3 yes

Trevillyan, Trimble ... 2 no

Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Browns Woods Hollow, west of Veterans Parkway and south of Browns Woods Drive - Change the Land Use Designation from Medium Density Residential to Single Family Residential and Rezone Property from Medium Density Residential to the Browns Woods Hollow Planned Unit Development (PUD), initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 16, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members absent, the Plan and Zoning Commission recommended City Council approval of the comprehensive plan amendment and rezoning request.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Hardman to adopt Resolution - Approval of Comprehensive Plan Amendment.

Vote 18-168: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes

Motion carried.

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It was moved by Trimble, second by Trevillyan to consider the first reading of the ordinance.

Vote 18-169: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Trevillyan to approve the first reading of the ordinance.

Vote 18-170: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Jordan Creek Town Center, 101 Jordan Creek Parkway - Amend the Planned Unit Development (PUD) to Modify Architectural Requirements and Allow an Additional Architectural Tower within the North Village District of the Jordan Creek Town Center Development, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 16, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members absent, the Plan and Zoning Commission recommended City Council approval of the PUD amendment.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

Mayor Gaer noted Hy-Vee, Inc., on behalf of Wahlburgers restaurants, has requested a sign that is not in compliance with the City's sign ordinance, but staff has identified other Wahlburgers locations with signs that would be in compliance.

Lynne Twedt, Development Services Director, reported the request was for a layered panel sign with all panels illuminated by LED lighting. Since there are other Wahlburgers locations with signs that would be in compliance, staff does not feel it would be necessary to amend the sign ordinance to allow the LED panel signs.

Andrew Reich, Hy-Vee, Inc., 5820 Westown Parkway, acknowledged there are examples out there of restaurants without the LED panel signs, but those were early locations. As the company has grown and the branding has evolved, the company now prefers to maintain the integrity of the brand logo at day and night with the LED panel signs.

Mayor Gaer expressed concerns about amending the sign ordinance, which took years to finalize, in order to allow these LED panel signs.

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Council member Trevillyan noted Bar Louie made a similar request for LED panel signs, but their request was not approved.

Ms. Twedt noted there are other ways to achieve the desired look of the sign, such as using backlighting to illuminate the green background panel, which would be in compliance with the sign ordinance.

Mayor Gaer inquired if the Council approves the first reading of the ordinance as staff recommended it, would the applicant consider that a deal-breaker for the project.

Mr. Reich stated the applicant would prefer the LED panel signs as requested, but the signage would not affect the status of the project, as their preference would be for the project to move forward regardless of the signage.

It was moved by Trevillyan, second by Mickelson to consider the first reading of the ordinance (option B).

Vote 18-171: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Mickelson to approve the first reading of the ordinance (option B).

Vote 18-172: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(c) West Grand Business Park, generally located at the intersection of Grand Avenue and South 88th Street - Amend the Planned Unit Development (PUD) to Remove Parcel 12 from the PUD Area, initiated by the City of West Des Moines.

It was moved by Trevillyan, second by Trimble to adopt Motion - Continue Public Hearing to April 16, 2018.

Vote 18-173: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(d) WDM Public Services, southwest corner of Grand Avenue and South 88th Street - Approval of a Planned Unit Development (PUD) to Allow Construction of a Public Services Facility with Associated Amenities, initiated by the City of West Des Moines.

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It was moved by Trevillyan, second by Trimble to adopt Motion - Continue Public Hearing to April 16, 2018.

Vote 18-174: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions) and Chapter 10 (Performance Standards) - Regulate Membrane Structures in General and Light Industrial Districts, initiated by West Des Moines Water Works. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 16, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members absent, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Mickelson to consider the first reading of the ordinance.

Council member Trevillyan stated he will abstain on this item due to a potential conflict of interest.

Vote 18-175: Hardman, Mickelson, Sandager, Trimble...4 yes  
Trevillyan... 1 abstain due to potential conflict of interest  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Mickelson to approve the first reading of the ordinance.

Vote 18-176: Hardman, Mickelson, Sandager, Trimble...4 yes  
Trevillyan... 1 abstain due to potential conflict of interest  
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider Vacation of a Portion of Wendover Road and Public Roadway Easement and Termination of Public Roadway Easement and Conveyance of Property, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 28, 2018 in the Dallas County News. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

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Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Hardman to consider the first reading of the ordinance.

Council member Trimble inquired if notification was given to surrounding property owners.

City Attorney Scieszinski responded notification is only given to property owners that would be impacted by the vacation of the roadway, so in this case it would only be the Robert F. Etzel Living Trust.

Vote 18-177: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Hardman to approve the first reading of the ordinance.

Vote 18-178: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

It was moved by Trimble, second by Trevillyan to adopt Resolution - Termination of Public Roadway Easement and Conveyance of Property.

Vote 18-179: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Sale and Removal of Single-Family Residences Located at 8700 County Line Road and 3476 Adams Street, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 28, 2018 in the Des Moines Register and March 29, 2018 in the N. Warren Town and County News. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Trevillyan to adopt Resolution - Open and Close the Public Hearing and Request that City Staff Provide a Subsequent Recommendation.

Vote 18-180: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.



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On Item 6(h) Mayor Gaer indicated this was the time and place for a public hearing to consider Amendment #1 to the Midtown Urban Renewal Area, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 23, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Trimble to adopt Resolution - Approval of Urban Renewal Plan Amendment.

Vote 18-181: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(i) Mayor Gaer indicated this was the time and place for a public hearing to consider Raccoon River Drive Culvert near South Jordan Creek Parkway, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 23, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Trimble to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Shekar Engineering.

Vote 18-182: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(j) Mayor Gaer indicated this was the time and place for a public hearing to consider Valley Junction Activity Center Fire Escape Stairs, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 23, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Reject All Bids.

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Vote 18-183: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(a) West Lakes Office Park Lot 2, 7160 University Avenue - Approval of a Site Plan to Allow Construction of a 12,000 sq. ft. Commercial Buildings, initiated by Fore Right LC

It was moved by Trevillyan, second by Hardman to adopt Resolution - Approval and Release of Site Plan, subject to the applicant complying with all applicable City Code requirements and the conditions of approval listed in the Resolution.

Council member Sandager inquired if this project is eligible for the property tax rebate program.

Clyde Evans, Community and Economic Development Director, responded the project is eligible for the program.

Vote 18-184: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(b) Southwoods West Plat 2, Lot 1 Plat of Survey, 5000 Westwood Drive - Create One Parcel for Future Transfer of Ownership and One Parcel for Street Right of Way, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Trimble to adopt Resolution - Approval and Release of Plat of Survey, subject to the applicant complying with all applicable City Code requirements.

Council member Trevillyan inquired when the request for bids to sell the parcel will be published.

City Attorney Scieszinski responded staff will try to get the request for bids published as soon as possible.

Vote 18-185: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(c) Osmium Urban Renewal Area - Approval of Amended TIF Ordinance, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Trimble to consider the first reading of the ordinance.

Vote 18-186: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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It was moved by Trevillyan, second by Trimble to approve the first reading of the ordinance.

Vote 18-187: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(d) Teamsters Local #238 (Police) - Contract July 1, 2018 thru June 30, 2022, initiated by the City of West Des Moines and Teamsters Local #238

It was moved by Hardman, second by Trevillyan to adopt Resolution - Approval of Contract.

Vote 18-188: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(e) West Des Moines EMT - Paramedics and EMT- Basics Local #3586 and City of West Des Moines - Contract July 1, 2018 thru June 30, 2021, initiated by the City of West Des Moines and Local 3586

It was moved by Hardman, second by Trimble to adopt Resolution - Approval of Contract.

Vote 18-189: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 8 - Receive, File and/or Refer: no items

On Item 9(a) Legislative Updates

Jamie Letzring, Deputy City Manager, provided a brief legislative update, stating Governor Reynolds has signed SF 2117 (Deappropriations Bill), which did not address the property tax backfill for cities, although there are still ongoing discussions about proposed reductions and/or elimination of that backfill. She also reported HSB 681 (Tax Increment Financing) is still pending, which would exclude the school and county levy from tax increment financing. She also reported that HF 2253 (Lease-Purchase Bill) was approved by the Senate with an amendment that will continue to allow some flexibility for public-private partnerships. She also reported that HF 2285 was signed by Governor Reynolds, which allows ground emergency transportation providers to receive supplemental reimbursements from the Federal Government for uncompensated care costs for Medicaid patients.

The meeting was adjourned at 6:15 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

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ATTEST:

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Steven K. Gaer, Mayor